

§ 954.7

§ 954.7 Failure to appeal proposed action.

A ruling of the authorized official shall become final upon failure of the publisher to file a petition in accordance with the requirements of § 954.8(b).

[36 FR 11567, June 16, 1971, as amended at 38 FR 17217, June 29, 1973]

§ 954.8 Pleading.

(a) *Place of filing.* Parties shall file an original and three copies of all documents of record, unless otherwise ordered by the presiding officer with the Recorder of the Postal Service, who shall cause copies to be delivered to the other parties and to the presiding officer. Service is ordinarily made on the private parties by certified mail and delivery is deemed complete when a document or notice of its arrival is left at the designated address. The Recorder shall maintain a docket and the files in all proceedings.

(b) *Petition.* A publisher may appeal from a ruling of the authorized official by filing a petition within 15 days of the receipt of the ruling unless the time is extended by the authorized official. The petition shall state the reasons why the publisher (designated "Petitioner" in the proceeding) believes the ruling of the authorized official is erroneous and shall provide the address at which documents may be served on the Petitioner. The petition shall also allege facts showing compliance with each provision of law or regulation on which the publisher's claim to Periodicals mail privileges is based. The publisher shall attach to his or her petition a copy of the letter of the authorized official denying, suspending or revoking Periodicals mail privileges.

(c) *Notice of hearing.* Upon receipt of the petition the Recorder shall set a date for the hearing and issue a notice of hearing to the parties stating the time and place of the hearing, the date for filing an answer, and the name of the presiding officer.

(d) *Answer.* The authorized official (designated the "Respondent" in the proceeding) shall answer the petition within 15 days after filing and admit or deny each allegation of the petition.

(e) *Amendment.* An amendment of a pleading may be offered by any party

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at any time prior to the close of the hearing. If the presiding officer deems it appropriate to permit the amendment of a pleading, he or she may impose such conditions, by way of continuance of the hearing date or otherwise, as he or she considers necessary to assure a fair hearing.

[36 FR 11567, June 16, 1971, as amended at 38 FR 17217, June 29, 1973; 62 FR 66998, Dec. 23, 1997]

§ 954.9 Default.

If a publisher fails to appear at the hearing, the presiding officer may: (a) Dismiss the petition; (b) order the petitioner to show cause within 30 days from the date of the order why an order of dismissal should not be entered, and thereafter enter such order as the presiding officer deems to be appropriate. If the petition is dismissed by order of an Administrative Law Judge, the dismissal may be appealed to the Judicial Officer within 15 days from the date of the order.

§ 954.10 Intervention or other participation.

To intervene or otherwise participate in a proceeding, any person may file a timely application in accordance with § 954.8(a). A timely application is one which will not unduly delay the proceeding. The application shall state whom the potential intervenor represents, his or her interest, the extent to which he or she desires to participate, and the evidence he or she seeks to introduce. The presiding officer shall fix the time within which the parties shall answer the application. The presiding officer shall grant or deny the application on such terms and conditions as he or she deems appropriate. In so doing the presiding officer will consider, among other things, whether intervention or other participation is consistent with the timely and proper adjudication of the rights of the original parties.

[31 FR 5198, Mar. 31, 1966. Redesignated at 31 FR 16270, Dec. 20, 1966; 62 FR 66998, Dec. 23, 1997]

§ 954.11 Hearings.

Hearings are held at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-